

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05CV252-03-MU

RONALD EDWARD DEESE,

Petitioner,

v.

THEODIS BECK,

Respondent.

ORDER

THIS MATTER comes before the Court on the Court's own motion. Petitioner filed a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, filed May 31, 2005 (Document No. 1.) On June 9, 2005, this Court ordered the State to file an Answer within forty (40) days from the filing of that Order. It has come to the Court's attention that the Attorney General may not have been served with the Court's June 9, 2005 Order or the Petitioner's Petition. Therefore, the undersigned directs that the Clerk's Office serve a copy of this Order, the Court's June 9, 2005 Order and the Petitioner's Petition on the Attorney General. Pursuant to the Court's June 9, 2005 Order, the Court finds that the Attorney General should file an Answer detailing and responding to Petitioner's allegation contesting the length of his sentence based upon his plea agreement. Based upon the Petition, the Court is unable to determine whether the Petitioner has exhausted his state court remedies or whether this Petition has been timely filed. Therefore, in addition to addressing the Petitioner's claim, the Court directs the Attorney General to include a discussion of timeliness and exhaustion in the Answer.

Petitioner also filed an Application to Proceed In Forma Pauperis on May 31, 2005. A Petition for a Writ of Habeas Corpus requires a filing fee of \$5.00. After reviewing the affidavit in

support of the application to proceed in forma pauperis, the Court concludes that the Petitioner is unable to pay the filing fee. Accordingly, his motion to proceed in forma pauperis is granted.

THEREFORE, IT IS HEREBY ORDERED that:

(1) The Clerk's Office serve a copy of this Order, the Court's June 9, 2005 Order (Document Number 3), and the Petitioner's Petition (Document Number 1) on the Attorney General; and

(2) No later than forty (40) days from the filing of this Order, the Attorney General shall file an Answer to Petitioner's Petition for Writ of Habeas Corpus, detailing and responding to Petitioner's allegation and addressing whether Petitioner exhausted his state court remedies and whether his May 31, 2005 Petition has been timely filed; and

(3) Petitioner's Application to Proceed In Forma Pauperis is **GRANTED**.

Signed: August 25, 2005

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
Chief United States District Judge

